

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL NO. 07-</b>
<b>v.</b>	<b>:</b>	<b>DATE FILED: March 20, 2007</b>
<b>THOMAS L. ROOT</b>	<b>:</b>	<b>VIOLATIONS:</b>
	<b>:</b>	<b>18 U.S.C. § 371 (conspiracy - 1 count)</b>
	<b>:</b>	<b>26 U.S.C. § 7201 (tax evasion - 1 count)</b>
	<b>:</b>	<b>26 U.S.C. § 7206(1) (filing false returns - 7</b>
	<b>:</b>	<b>counts)</b>
	<b>:</b>	<b>18 U.S.C. § 2 (aiding and abetting)</b>
	<b>:</b>	

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**INDICTMENT**

**COUNT ONE**

**THE GRAND JURY CHARGES THAT:**

At all times material to this indictment:

1. Reading Broadcasting, Inc. ("RBI"), was a Pennsylvania corporation which owned a Reading, Pennsylvania-area television station known as "TV-51" or "WTVE." RBI broadcast primarily paid advertising known as "infomercials" and shopping television shows.

2. Defendant THOMAS L. ROOT, a former attorney who lost his license to practice law in approximately 1990, was employed full-time by RBI as the "director of special projects" beginning in approximately September 1996. Prior to that, he had worked for RBI as an independent contractor on various matters. Defendant ROOT received substantial taxable income from RBI in the form of hundreds of thousands of dollars in salary and commissions.

Defendant ROOT resided in Norwalk, Ohio, and regularly commuted to Reading, Pennsylvania, to perform his duties at RBI.

3. Francis D. McCracken, charged elsewhere, was the president and general manager of RBI and received substantial taxable income from RBI in the form of hundreds of thousands of dollars in salary and commissions.

4. KGR New Perspectives, L.L.C., was a company owned and controlled by defendant THOMAS L. ROOT and his wife which defendant ROOT used to, among other things, evade the payment of local, state, and federal income taxes due on more than \$90,000 in commissions defendant ROOT received from RBI.

5. Framco, L.L.C., was a company owned and controlled by Francis D. McCracken which, with defendant THOMAS L. ROOT's assistance, McCracken used to, among other things, evade the payment of local, state, and federal income taxes due on more than \$400,000 in commissions he received from RBI.

6. Master Media, Inc., was a firm hired by RBI to sell its air time for which Master Media, Inc., received a 15-percent commission of the gross revenue of the sale of RBI's air time.

### **THE CONSPIRACY**

7. From at least in or about 2000 and continuing through at least in or about the date of this indictment, in the Eastern District of Pennsylvania and elsewhere, defendant

### **THOMAS L. ROOT**

conspired and agreed with Francis D. McCracken, charged elsewhere, and others known and unknown to the grand jury, to knowingly defraud the United States by impeding, impairing,

obstructing, and defeating the lawful governmental functions of the IRS in the ascertainment, computation, assessment, and collection of revenue, that is, federal income taxes, in violation of Title 18, United States Code, Section 371.

### **MANNER AND MEANS**

It was part of the conspiracy that:

\_\_\_\_\_8. Francis D. McCracken, as president of RBI, directed that he and other employees of RBI be paid commissions on the sale of RBI's air time even though most of those to receive these commissions had little or nothing to do with sales of RBI's air time. McCracken awarded himself a commission of ten percent of gross sales made by Master Media, Inc., and defendant THOMAS L. ROOT a commission of two percent of these gross sales.

9. Defendant THOMAS L. ROOT and Francis D. McCracken agreed to divert their commissions to companies they owned and controlled to prevent disclosure of the payments to the Internal Revenue Service ("IRS") and so that they could avoid paying tens of thousands of dollars in federal income taxes due on the commissions.

10. Defendant THOMAS L. ROOT and Francis D. McCracken directed the RBI bookkeeper not to issue IRS Forms 1099 reporting the commissions they had received. Also, defendant ROOT and McCracken did not disclose to the RBI board and shareholders that they had received these commissions and made false and misleading statements to board members and shareholders to conceal their receipt of the commissions.

11. RBI paid defendant THOMAS L. ROOT and Francis D. McCracken bi-weekly commission payments to their respective companies. Defendant THOMAS L. ROOT

deposited some of the commission payments into bank accounts he controlled and used the funds to pay his personal and other expenses.

12. Francis D. McCracken deposited part of the commission payments in various bank accounts he owned or controlled. He then withdrew most the funds in cash or by check and used them for his personal and other expenses.

13. Defendant THOMAS L. ROOT and Francis D. McCracken failed to report the commissions to the IRS and defendant ROOT filed false tax returns for the calendar years 2001, 2002, and 2003.

### **OVERT ACTS**

\_\_\_\_\_ In furtherance of the conspiracy, defendant THOMAS L. ROOT, Francis D. McCracken, and others known and unknown to the grand jury, committed the following overt acts, among others, in the Eastern District of Pennsylvania and elsewhere:

1. On or about November 19, 2001, with the concurrence of defendant THOMAS L. ROOT, co-conspirator Francis D. McCracken directed RBI's bookkeeper to "cease issuing commission checks to Tom Root and to me. Instead issue Tom Root's commissions to New Perspectives, L.L.C. . . . Issue my commissions to Framco L.L.C."

2. On or about December 1, 2001, defendant THOMAS L. ROOT caused his wife to sign a fictitious agreement with RBI in which RBI purported to agree to pay commissions to KGR New Perspectives, L.L.C., for providing "sales services" to RBI even though KGR New Perspectives, L.L.C., and ROOT's wife performed no such work.

\_\_\_\_\_ 3. In late-2001 or early-2002, defendant THOMAS L. ROOT and co-conspirator Francis D. McCracken told RBI's bookkeeper not to issue an IRS Form 1099 to their

respective companies. An IRS Form 1099 reports income other than wages received by individuals. As a result of defendant ROOT and co-conspirator McCracken's instruction, no federal income taxes were withheld from their commissions and the IRS was not notified that they had been paid. This was in contrast to other RBI employees who were paid commissions with their wages and had their commissions reported on their IRS Form W-2, which is an IRS form that notifies the IRS and taxpayer of the total amount of wages paid during a calendar year.

4. In or about February and March 2003, defendant THOMAS L. ROOT and co-conspirator Francis D. McCracken made false and misleading statements to RBI board members and shareholders about which RBI employees were being paid commissions. Specifically, defendant ROOT and co-conspirator McCracken stated that commission payments had been made to "sales representatives" and to "compensate the sales efforts of . . . station personnel" and failed to disclose that they were receiving tens of thousands of dollars in commission payments.

5. On or about the following dates and in the following amounts, defendant THOMAS L. ROOT and co-conspirator Francis D. McCracken caused RBI to make commission payments to KGR New Perspectives, L.L.C. Defendant ROOT then caused these payments to be deposited into bank accounts he or his wife controlled or cashed on or about the dates listed. Each of the payments and deposits is charged as a separate overt act in furtherance of the conspiracy. The IRS was not notified of the payment of the commissions either by issuance of IRS Form 1099 or Form W-2:

<u>Date</u>	<u>Amount of payment</u>	<u>Date deposited or cashed</u>
January 9, 2004	\$1,549.01	January 12, 2004

<u>Date</u>	<u>Amount of payment</u>	<u>Date deposited or cashed</u>
January 23, 2004	\$1,549.01	January 24, 2004
February 5, 2004	\$1,617.66	February 9, 2004
February 20, 2004	\$1,617.66	February 23, 2004
March 4, 2004	\$1,352.30	March 8, 2004
March 18, 2004	\$1,352.30	March 22, 2004
April 16, 2004	\$1,689.18	April 19, 2004
April 30, 2004	\$1,689.18	May 5, 2004
May 14, 2004	\$1,509.00	May 17, 2004
May 28, 2004	\$1,365.36	June 12, 2004

6. On or about the following dates and in the following amounts, defendant THOMAS L. ROOT and co-conspirator Francis D. McCracken caused RBI to make commission payments to Framco, L.L.C. McCracken then caused the payments to be deposited into bank accounts he controlled on or about the dates listed. Each of the payments and deposits is charged as a separate overt act in furtherance of the conspiracy. The IRS was not notified of the payment of the commissions either by issuance of IRS Form 1099 or Form W-2:

<u>Date</u>	<u>Amount of payment</u>	<u>Date deposited</u>
February 5, 2004	\$9,638.98	February 5, 2004
February 20, 2004	\$9,638.98	February 20, 2004
March 2, 2004	\$7,801.81	March 2, 2004
March 18, 2004	\$7,801.81	March 22, 2004

7. On or about April 15, 2002, defendant THOMAS L. ROOT filed a false income tax return for the calendar year 2001, intentionally failing to report some of the commission payments from RBI.

8. On or about April 15, 2002, Francis D. McCracken failed to report to the IRS report the commission payments he had received from RBI in 2001.

9. On or about April 15, 2003, defendant THOMAS L. ROOT filed a false income tax return for the calendar year 2002, intentionally failing to report the commission payments from RBI.

10. On or about April 15, 2003, Francis D. McCracken failed to report to the IRS report the commission payments he had received from RBI in 2002.

11. On or about April 15, 2004, defendant THOMAS L. ROOT filed a false income tax return for the calendar year 2003, intentionally failing to report the commission payments from RBI.

12. On or about April 15, 2004, Francis D. McCracken failed to report to the IRS report the commission payments he had received from RBI in 2003.

All in violation of Title 18, United States Code, Section 371.

## **COUNT TWO**

### **THE GRAND JURY FURTHER CHARGES THAT:**

1. Between on or about January 1, 2000, and the date of this indictment, in the Eastern District of Pennsylvania and elsewhere, defendant

#### **THOMAS L. ROOT**

willfully engaged in a continuing attempt to evade and defeat a large part of the tax due and owing by him and his spouse to the United States of America for the calendar years 2001 through 2004, through various means. As a result of this course of conduct, defendant ROOT evaded the payment of more than \$40,000 in federal income taxes.

2. As part of this attempt to evade federal income taxes, defendant THOMAS L. ROOT did the following:

a. He employed a company named KGR New Perspectives, L.L.C., to receive income obtained by him as a way to conceal the fact that he was receiving commissions from his employer, Reading Broadcasting, Inc. ("RBI").

b. He directed RBI's bookkeeper to pay his commissions to KGR New Perspectives, L.L.C., instead of to him personally, thereby causing RBI to keep inaccurate records in Reading, Pennsylvania, regarding to whom it was paying commissions. Throughout the period of time relevant to this indictment, defendant ROOT arranged for most of his commission income from RBI to be paid to KGR New Perspectives, L.L.C., and to be deposited into accounts maintained by his wife or KGR New Perspectives, L.L.C. Defendant ROOT then used the funds to pay numerous personal and other expenses.

c. Defendant ROOT directed RBI's bookkeeper in Reading, Pennsylvania, not to issue him or KGR New Perspectives, L.L.C., an IRS Form W-2 or a Form



1099 so that the IRS would not be notified that he was receiving tens of thousands of dollars in commission income from RBI.

d. Defendant ROOT created a fictitious agreement between RBI and KGR New Perspectives, L.L.C., which concealed the fact that he was receiving tens of thousands of dollars in commission income from RBI and made it appear that the income was actually paid to KGR New Perspectives, L.L.C.

e. Defendant ROOT concealed the fact that he was receiving commissions from RBI board members and shareholders.

f. Defendant ROOT used a sole proprietorship he called Legal Information Services Associates (“LISA”) to receive payments from lawyers and others for whom he was performing legal research and writing, and other work. Defendant ROOT did not report income on his tax returns that he directed be paid to LISA.

g. Defendant ROOT engaged in a pattern of filing false tax returns, which failed to report income he received from RBI, lawyers and law firms for which he performed services, and M.L.P., an RBI shareholder who had other business ventures in which the shareholder employed defendant ROOT.

3. As part of his attempt to evade federal income taxes, defendant THOMAS L. ROOT committed the following affirmative acts, among others:

a. In or about November 2001, defendant ROOT directed the RBI bookkeeper to cease paying commissions to him and begin paying them to KGR New Perspectives, L.L.C. As a result, defendant ROOT’s commission income was no longer paid to him directly, was not listed in any IRS form, such as an IRS Form W-2 or an IRS Form 1099, and no taxes were withheld from it.

b. In approximately November or December 2001, defendant ROOT created a fictitious agreement between RBI and KGR New Perspectives, L.L.C., to conceal the fact that defendant ROOT was receiving commissions from RBI. The agreement was maintained in RBI's records in Reading, Pennsylvania, and made it appear that K.G.R. New Perspectives, L.L.C., was performing "sales services" for RBI and being paid commissions for this work, when, in fact, the commissions were being paid to defendant ROOT.

c. In approximately January 2002, defendant ROOT directed the RBI bookkeeper in Reading, Pennsylvania, not to issue KGR New Perspectives, L.L.C., an IRS Form 1099, so that the IRS would not be notified that he or KGR New Perspectives, L.L.C., had received tens of thousands of dollars in commission income from RBI.

d. Defendant ROOT concealed the fact that RBI had made commission payments to him and McCracken by telling RBI shareholders and board members in approximately February and March 2003 that commission payments were being paid to the station's sales staff and that the increase in commissions resulted from more aggressive sales efforts. Defendant ROOT and McCracken did not tell board members and shareholders that they were receiving commissions.

e. At various times between 2000 and 2004, defendant ROOT directed individuals and firms who hired him to do legal research, brief writing, and other work to make payments to LISA and not to him personally to conceal the fact that he was receiving taxable income from them. Defendant ROOT falsely represented that LISA was a corporation, in part, so that not IRS Form 1099s would be issued to it notifying the IRS of payments to LISA.

f. On or about April 15, 2001, defendant ROOT filed a false federal income tax return for the year 2000 by failing to report substantial income from LISA, various lawyers and law firms, and M.L.P., a person known to the grand jury.

g. On or about April 15, 2002, defendant ROOT filed a false federal income tax return for the year 2001 by failing to report substantial income from RBI, LISA, various lawyers and law firms, and M.L.P., a person known to the grand jury.

h. On or about April 15, 2003, defendant ROOT filed a false federal income tax return for the year 2002 by failing to report substantial income from RBI, LISA, various lawyers and law firms, and M.L.P., a person known to the grand jury.

i. On or about April 15, 2004, defendant ROOT filed a false federal income tax return for the year 2003 by failing to report substantial income from RBI, LISA, and various lawyers and law firms.

All in violation of Title 26, United States Code, Section 7201.

**COUNT THREE**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 15, 2001, in the Northern District of Ohio, defendant

**THOMAS L. ROOT**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2000, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service which defendant ROOT did not believe to be true and correct as to every material matter, in that the return substantially under-reported his adjusted gross income of \$70,630, when in fact, as defendant ROOT well knew, his adjusted gross income was more than what he reported in that he had received additional taxable income from M.L.P., a person known to the grand jury, and various other sources.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT FOUR**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 15, 2002, in the Northern District of Ohio, defendant

**THOMAS L. ROOT**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2001, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service which defendant ROOT did not believe to be true and correct as to every material matter, in that the return substantially under-reported his adjusted gross income of \$76,836, when in fact, as defendant ROOT well knew, his adjusted gross income was more than what he reported in that he had received additional taxable income from his employer, Reading Broadcasting, Inc., in the form of commissions and from various other sources.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT FIVE**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 15, 2003, in the Northern District of Ohio, defendant

**THOMAS L. ROOT**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2002, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service which defendant ROOT did not believe to be true and correct as to every material matter, in that the return substantially under-reported his adjusted gross income of \$47,601, when in fact, as defendant ROOT well knew, his adjusted gross income was more than what he reported in that he had received additional taxable income from his employer, Reading Broadcasting, Inc., in the form of commissions and from various other sources.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT SIX**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 15, 2004, in the Northern District of Ohio, defendant

**THOMAS L. ROOT**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2003, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service which defendant ROOT did not believe to be true and correct as to every material matter, in that the return substantially under-reported his adjusted gross income of \$44,395, when in fact, as defendant ROOT well knew, his adjusted gross income was more than what he reported in that he had received additional taxable income from his employer, Reading Broadcasting, Inc., in the form of commissions and from various other sources.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT SEVEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about June 18, 2004, in the Northern District of Ohio and elsewhere,  
defendant

**THOMAS L. ROOT**

willfully made and subscribed an amended United States income tax return, Form 1040X, for the calendar year 2001, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service which defendant ROOT did not believe to be true and correct as to every material matter, in that the return substantially under-reported his adjusted gross income of \$87,528, when in fact, as defendant ROOT well knew, his adjusted gross income was more than what he reported in that he had received additional taxable income in the form of payments from M.L.P., a person known to the grand jury, and from various other sources.

In violation of Title 26, United States Code, Section 7206(1).



**COUNT EIGHT**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 17, 2006, in the Northern District of Ohio and elsewhere,  
defendant

**THOMAS L. ROOT**

willfully made and subscribed an amended United States income tax return, Form 1040X, for the calendar year 2002, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service which defendant ROOT did not believe to be true and correct as to every material matter, in that the return substantially under-reported his adjusted gross income of \$74,492, when in fact, as defendant ROOT well knew, his adjusted gross income was more than what he reported in that he had received additional taxable income in the form of payments from M.L.P., a person known to the grand jury, and from various other sources.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT NINE**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about June 18, 2004, in the Northern District of Ohio and elsewhere,  
defendant

**THOMAS L. ROOT**

willfully made and subscribed an amended United States income tax return, Form 1040X, for the calendar year 2003, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service which defendant ROOT did not believe to be true and correct as to every material matter, in that the return substantially under-reported his adjusted gross income of \$81,751, when in fact, as defendant ROOT well knew, his adjusted gross income was more than what he reported in that he had received additional taxable income in the form of payments from various lawyers and law firms and other sources.

In violation of Title 26, United States Code, Section 7206(1).

\_\_\_\_\_**A TRUE BILL:**

\_\_\_\_\_  
\_\_\_\_\_**GRAND JURY FOREPERSON**

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**PATRICK L. MEEHAN**  
**United States Attorney**